MT LEGISLATIVE HISTORY

Chapter 486 1997

Bill H 498 S _____ Original bill & hist. ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 01	✓ C	Hearing Date(s)	Mar 18	✓ C
	Feb 07	✓ C		Mar 30	✓ C
		C			C
		C			C
Date Out	Feb 07	✓ C		Mar 30	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

H BILL NO. 498

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INVESTIGATIVE SUBPOENAS FOR COUNTY ATTORNEYS AND THE ATTORNEY GENERAL; PROVIDING FOR PROCEDURES IN RELATION TO SUCH SUBPOENAS AND THE INVESTIGATIVE INQUIRIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Investigative subpoena. (1) Whenever the attorney general or a county attorney has a duty to investigate criminal activity, any justice of the supreme court or district court judge of this state may cause subpoenas to be issued commanding the persons to whom they are directed to appear before the attorney general or the county attorney and give testimony and produce such books, records, papers, documents, and other objects as may be necessary and proper to the investigation. A subpoena may issue only when it appears upon the affidavit of the attorney general or the county attorney that the administration of justice requires it to be issued.

(2) A person who, without just cause, fails to obey a subpoena served on him pursuant to this act is punishable for contempt of court.

INTRODUCED BILL

(3) A person aggrieved by a subpoena issued pursuant to this act may, within a reasonable time, file a motion to dismiss the subpoena and, in the case of a subpoena duces tecum, to limit its scope. The motion shall be granted if the subpoena was improperly issued or, in the case of a subpoena duces tecum, if it is overly broad in its scope.

Section 2. Conduct of investigative inquiry. (1) The attorney general or the county attorney may examine under oath all witnesses subpoenaed pursuant to this act. Testimony may be recorded and transcribed in the manner provided for grand jury proceedings.

(2) The secrecy and disclosure provisions relating to grand jury proceedings apply to proceedings conducted under subsection (1). A person who divulges the contents of the application or the proceedings without legal privilege to do so is punishable for contempt of court.

(3) All penalties for perjury or preparing, submitting, or offering false evidence apply to proceedings conducted under this act.

Section 3. Self-incrimination and immunity. (1) No person subpoenaed to give testimony pursuant to this act may be required to make any statement or produce any evidence which may incriminate him. The attorney general or the county attorney may, on behalf of the state, grant any person subpoenaed immunity from prosecution or punishment

for or on account of any transaction or other matter concerning which the person testifies or produces evidence pursuant to the subpoena. After being granted such immunity, no person may be excused from testifying on the grounds that his testimony may incriminate him. The immunity may not extend to prosecution or punishment for false statements given pursuant to the subpoena.

(2) Nothing in this act requires a witness to divulge the contents of a privileged communication unless the privilege is waived as provided by law.

Section 4. Applicability of other laws -- costs. (1) The fees and mileage of witnesses subpoenaed pursuant to this act shall be the same as required in criminal actions. The state shall bear all costs, including the cost of service, when the application for the subpoena is made by the attorney general, and the appropriate county shall bear all costs, including the cost of service, when the application for the subpoena is made by a county attorney.

(2) All provisions relating to subpoenas in criminal actions apply to subpoenas issued pursuant to this act, including the provisions of 95-1808 through 95-1811.

Section 5. Effective date. This act is effective on its passage and approval.

-End-

MR. MURFITT:
The medical malpractice case is a hard case to win. I recognize that doctors have to be positive.

REPRESENTATIVE ROTH:
I cannot understand why this certificate of merit would cause so many problems. Is this hurt feelings or guilt feelings.

REPRESENTATIVE EUDAILY:
Will the consulting physician have any liability? Will his insurance have to cover him, will it have any effect on his insurance?

REPRESENTATIVE SCULLY:
I don't think so. The rates are figured on his skill or level of practice.

MR. DOWLING:
There was another bill earlier, this week, that very thing might be possible.

REPRESENTATIVE SCULLY:
I am getting tired of this package deal. I answered your question on the basis of this bill. The set of circumstances in California has not figured in the facts and figures in the insurance rates. I have gone through the whole inflationary figure and nowhere does it figure.

REPRESENTATIVE DAY:
Don't the insurance companies, in fact, base their premiums on the amount of claims paid.

MR. MURFITT:
By cutting out the frivolous suit this should save some amount of money.

REPRESENTATIVE DAY:
Assume a surgeon has to sue another surgeon. Won't he know that his rates will go up. It is my feeling that this will cause malpracti rates to rise. Is that not right?

MR. LEINDORF:
Yes, every good claim would.

The hearing closed on House Bill #279.

THE HEARING OPENED ON HOUSE BILL #498:

REPRESENTATIVE SCULLY:
This is another of the county attorneys package bills. It is, as a matter of fact. Everybody has subpoena power except the county

attorney. In many other states you have sort of a dual process. The other method is by grand jury. I guess the derivative of the bill is that people don't want to get involved. This bill speaks to the people on the fringe who might help bring about the filing of an action. The county attorneys throughout the state have a great need for this type of legislation. This bill would allow the county attorneys to make investigative inquiries through the subpoena process.

ROBERT L. DESCHAMPS, COUNTY ATTORNEY:
I would in fact, draft this bill or at least an earlier version of it. We researched about 2 months to see how it would apply in this state. Essentially, this bill, what it amounts to, is to give more investigative authority in criminal cases. In section 1, it puts in a safeguard that many other states do not have, and section 2 provides for the inquiry. Section 3 is the most controversial, concerning sel-incrimination and immunity, both transactiona immunity and use immunity.

I think there are some serious problems with this present immunity statute. The immunity we are talking about here is the use immunity.

Section 3 also has a provision for privilege. Section 4 is the procedure whereby if you get a witness in another state, you get a subpoena here and it is enforced in the other state. In essence, there is a definite need for it.

MIKE McGRATH, ATTORNEY GENERALS OFFICE:
I would like to offer an amendment, on page 1, section 1, line 13, following; "investigate", insert; " alleged unlawful activity". We support this bill. This subpoena power is not present at all so it is very essential that some kind of subpoena power get placed on the books. It is much less cumbersome than a grand jury. This bill is not being proposed to circumvent the grand jury process. I like this bill, I like it a lot. It has some good safeguards. It must be issued by a court to prevent harassment, supported by an affidavit There are also some provisions so that you could go into court and quash the subpoena.

The reason I suggest this amendment is because of the anti-trust violations. I support this bill and urge its passage.

TOM HONZEL, COUNTY ATTORNEY:
We support this bill. During the last session we had a bill that was killed in the Senate Judiciary Committee. We need the subpoena power. We are asking you to grant the subpoena power. I would ask that you accept the amendment and give it a do pass recommendation.

REPRESENTATIVE DUSSAULT:
Can you give me some idea of when it would be more appropriate to use this than a grand jury.

MR. McGRATH:
Where the anti-trust laws might be involved.

REPRESENTATIVE HAND:
Would it work for both civil and criminal cases.

MR. McGRATH:
With the amendment.

There were no further questions from the committee and the hearing closed on House Bill #498.

The meeting adjourned at 9:50 a.m.

JOHN P. SCULLY, CHAIRMAN

Mary Ellen Connelly

Mary Ellen Connelly, Secretary

Executive session
February 7, 1977

SENATE BILL #70:
REPRESENTATIVE KEYSER moved "be concurred in". The motion carried with the vote unanimous.

HOUSE BILL #492:
REPRESENTATIVE BAETH moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #498:
REPRESENTATIVE LORY moved to amend page 1, section 1, subsection (1), line 13.
following "investigate"
strike "criminal activity"
insert "alleged unlawful activity"
The motion to amend carried with the vote unanimous.

REPRESENTATIVE HOLMES moved to insert a new subsection, following line 21. The motion failed with Representative Holmes casting the only affirmative vote.

REPRESENTATIVE LORY moved "do pass as amended". The motion carried with Representative Hand voting "no".

HOUSE BILL #499:
REPRESENTATIVE SCULLY moved "do pass".
REPRESENTATIVE HOLMES moved a substitute motion to amend as follows, on lines 16 and 18
strike "$35"
insert "$15"
The motion failed with all voting "no" except Representative Holmes

The question was called and the motion "do pass" carried with Representatives Hand, Eudaily and Teague voting "no".

HOUSE BILL #500:
REPRESENTATIVE LORY moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #513:
REPRESENTATIVE LORY moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #532:
REPRESENTATIVE KEYSER moved "do pass". There was general discussic concerning how to fund it, if it would reduce property taxes, etc.

REPRESENTATIVE SEIFERT CAME IN.

There followed general discussion about possibly writing a letter to the appropriations committee to the effect that the judiciary

Senate Judiciary
March 18

The Chairman thanked the witnesses for testifying and said that the bill would be taken under advisement.

CONSIDERATION OF HOUSE BILL ~~321~~ 498:

Rep. Scully of Bozeman, sponsor of the bill, said that subpoena powers for county attorneys is the subject of this bill. County attorneys presently do not have subpoena powers, but legislative committees, grand juries, etc., do have them. However, he believes county attorneys should have subpoena powers, even though many states are going solely with the grand jury system, because he does not like that system. He said further that the bill had been thoroughly discussed and was approved by the Crime Control board.

Since Rep. Scully had to attend another meeting, the chairman allowed Sen. Towe to ask questions of him at this time. One of the questions was how the state could get a county attorney to not abuse the subpoena power. Rep. Scully said that this could be done by requiring the county attorneys to have testimony recorded, transcribed and signed by them. He feels that the county attorney investigative subpoena is much better than the grand jury system. At this time, he asked to be allowed to respond to any amendments the committee may propose and the Chairman, Senator Turnage, instructed the secretary to send a copy of the proposed amendments to him.

The first proponent to testify was Tom Honzel, representing the County Attorneys Assn., who said that we are beginning to have a number of cases of business and land fraud in this state and that the only way people can be made talk on these things is by subpoena power. If we had this power in Montana, we would have more success in getting at the drug pusher. He said that they at first had assumed county attorneys had this power under §95-1803, however, they do not. He does not believe this power would be abused for you do have to rely on the judges to issue the subpoenaes.

The next proponent to testify was Mike McGrath from the Department of Justice who said that they strongly support this bill and that they do not think that it always substitute for the grand jury system. However, the department feels that a subpoena issued upon a signed affidavit is very important, because the main thing it is for is to take a deposition of a witness. If a person wants counsel, they can have it, and an indigent can get assistance from Montana Legal Services.

Sheriff Hammermeister of Pondera County at Conrad was the next proponent. He represents the Sheriffs & Peace Officers Assn.. He presented a poll which they had taken within their association. (See Ex. 3) Although they feel very highly of the present attorney general, they do not want to see that office have the subpoena powers. Therefore, he proposed the committee amend the bill by limiting the attorney general's subpoena powers to just the workmen's compensation investigation. Otherwise, the sheriffs do not want to see the attorney general have the subpoena powers.

There were no opponents to HB 498 and the hearing was closed.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 3/16/77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret	✓		

Each day attach to minutes

TO THE SENATE JUDICIARY COMMITTEE
of the Montana Legislature

The results of a pole conducted by telephone on HB- 498
by Sheriffs Buzz Davis, Murdo McClean, John Onstead, Jack Songer,
Dale Dye and deputy sheriff Jim Burns.

Beaverhead	Co. Atty. O.K. Against Atty. Gen having FULL subpoena power
Big Horn	Leave the bill Alone
Blaine	County Attorney O.K., don't think Atty. Gen. needs it.
Broadwater	Leave the bill Alone
Carbon	
Carter	
Cascade	Leave bill as is ~~except do have some question of Atty. Gen. getting subp.~~
Chouteau	
Custer	Co. Atty. O.K., AGAINST the Atty. Gen. having subpoena po
Daniels	
Dawson	
Deer Lodge	
Fallon	
Fergus	AGAINST the Atty. Gen. having subpoena po
Flathead	AGAINST THE BILL
Gallatin	AGAINST THE BILL, it upsets the balance of authority
Garfield	AGAINST THE BILL
Glacier	AGAINST THE BILL
Golden Valley	does not know, no comment.
Granite	Co. Atty. O.K., but not particularly for the Atty. Gen.
Hill	APPROVES OF THE COMPLETE BILL
Judith Basin	AGAINST THE BILL
Jefferson	
Lake	Co. Atty. O.K., but not for the Atty. Gen.
Lewis & Clark	-AGAINST THE BILL
Liberty	AGAINST THE BILL
Lincoln	with more safeguards written in the bill, then it will be C
Madison	
McCone	Co. Atty. O.K., AGAINST the Atty. Gen. having subpoena po
Meagher	Co. Atty. O.K., AGAINST the Atty. Gen. having subpoena po
Mineral	Co. Atty. O.K. AGAINST the Atty. Gen. Having subpoena po
Missoula	YES as written do now want to ~~XXXXXXX~~ allienate the Atty.
Musselshell	Co. Atty. O.K. AGAINST the Atty. Gen. having subpoena po
Park	Co. Atty. O.K. AGAINST the Atty. Gen. having subpoena pov
Petroleum	
Phillips	Co. Atty. O.K. Against the Atty. Gen. having subpoena pov
Pondera	AGAINST THE BILL sets up another [illegible]
Powder River	[illegible]

Phillips	Co. Atty. O.K. Against the Atty. Gen. having subpoena power
Pondera	AGAINST THE BILL sets up another investigative agency
Powder River	Co. Atty. O.K. Against the Atty. Gen. having subpoena power
Powell	Co. Atty. O.K. AGAINST the Atty. Gen. having subpoena power
Prairie	
✓ Ravalli	YES should not become involved
Richland	AGAINST THE BILL
Roosevelt	AGAINST THE BILL
Rosebud	AGAINST THE BILL
✓ Sanders	YES FOR WHOLE BILL
Sheridan	AGAINST THE BILL
✓ SilverBow	YES FOR WHOLE BILL
Stillwater	AGAINST THE BILL
Sweetgrass	
Teton	Co. Atty. O.K. he has reservation of the Atty. Gen. getting
Toole	Co. Atty. O.K., AGAINST the Atty. Gen. having subpoena power
Treasure	Col Atty. O.K. , AGAINST the Atty. Gen. having subpoena power
Valley	
Wheatland	Co. Atty. O.K., AGAINST THE Atty. Gen. having subpoena power
Wibaux	Co. Atty. O.K. AGAINST the Atty. Gen. having subpoena power
Yellowstone	Co. Atty. O.K. Against the Atty. Gen. having subpoena power with apprehension of not to allienate the A.G.

8 13 20

Respectfully submitted.
W. L. Hammermeister
Pondera Co. Sheriff
for the Mont. Sheriffs & Peace officers Assn.

SENATE Judiciary COMMITTEE

BILL SB 371, SB 498, SB 321

VISITORS' REGISTER

DATE

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPO
Dave Brown	Montana Sheriffs & Peace Officers Assn	SB 498	amend	
W.L. Hammermeister	" " "	HB 498	amend	
Lorna Frankiewicz	West Yellowstone Comm	371	X	
David L. Hunter	Mt. League of Cities & Towns	247	X	
[illegible]	Missoula County	247	X	
Tom Hoyt	County Attorneys	HB 498	X	
MIKE MCGRATH	ATTY GEN	HB 498	X	
Harold Dover	Self	371	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 30, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:45 a.m. in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Roberts who was excused to attend another hearing.

EXECUTIVE SESSION

HB 498 - Sen. Turnage offered amendments to this bill for consideration by the committee. Sen. Towe then moved the adoption of all of the amendments. (See Attach. #1) Sen. Lensink voted "No" on amendment #9. Other than the one "No" vote on amendment #9, the motion carried unanimously. Sen. Olson then moved that HB 498 as amended BE CONCURRED IN. The motion carried unanimously.

HB 457 - Sen. Olson moved the adoption of the amendments. (See Attach. #2) The motion carried unanimously. Sen. Towe then moved that HB 457 as amended BE CONCURRED IN. The motion carried unanimously.

At this time, Senators Towe and Warden were excused to attend other meetings. (10:00 a.m.) Sen. Towe returned as the meeting was delayed.

HB 200 - Sen. Olson moved that HB 200 be tabled. The motion carried unanimously.

HB 782 - Sen. Regan moved that HB 782 BE NOT CONCURRED IN. The motion carried with Senators Lensink and Olson voting "No". The vote was 5 - 2 with Towe, Turnage, Murray, Regan and Warden voting "Yes". Sen. Warden's vote on this bill was obtained during the afternoon session of the Senate as she was excused from this meeting before this vote. Sen. Roberts was also excused during this meeting.

HB 334 - Sen. Lensink moved to strike section 3, subsection (2), and section 4, following "filed". The motion carried unanimously. (The committee will act on this bill at the meeting on 3/31/77.)

There being no further business before the committee at this time, the committee adjourned at 11:05 a.m..

Jean A. Turnage

SENATOR JEAN A. TURNAGE, Chairman

Respectfully report as follows: That House Bill No. 498, the third reading bill, be amended as follows:

(Attach #1)

1. Amend ~~page xixxxxxxxxxx~~ title, lines 5 and 6,
Following: "ATTORNEYS"
Strike: "AND THE ATTORNEY GENERAL"

2. Amend page 1, section 1, lines 11 and 12.
Following: "Whenever"
Strike: "the attorney general or"

3. Amend page 1, section 1, lines 16 and 17.
Following: "before"
Strike: "the attorney general or"

4. Amend page 1, section 1, line 21.
Following: "of"
Strike: "the attorney general or"

~~Respectfully report as follows: That~~ Exhibit

5. Amend page 1, section 1, line 23.
Following: "issued"
Insert: "and that there is a relevant connection to an existing criminal investigation"

6. Amend page 2, section 2, lines 8 and 9.
Following: "(1)"
Strike: "The attorney general or"
Insert: "Any examination by"
Following: "county attorney"
Strike: "may examine"
Insert: ~~XXXXXXXXXX~~ "under this act shall be conducted"

7. Amend page 2, section 2, line 10.
Following: "oath"
Insert: "before the justice or judge who authorized the issuance of the subpoena"

8. Amend page 2, section 2, line 10.
Following: "oath"
~~XXXXXX~~ Strike: "all witnesses subpoenaed pursuant to this act"

9. Amend page 2, section 2, lines 11 and 12.
Following: "Testimony"
Strike: "may"
Insert: "shall"
Following: "recorded"
Strike: "and transcribed in the manner provided for grand jury proceedin
Insert: ". The witness has the right to have counsel present at all tim
If he does not have funds to obtain counsel, the ~~xxxxxxxxx~~ judge or
justice shall appoint counsel for him"

10. Amend page 2, section 3, line 24.
Following: "The"
Strike: "attorney general or the"

11. Amend page 2, section 3, line 25.
Following: "may"
Insert: ", with the approval of the justice or judge who authorized the
issuance of the subpoena"

12. Amend page 3, section 4, lines 15 through 17.
Following: "The"
Strike: "state shall bear all costs, including the cost of service, whe
the application for the subpoena is made by the attorney general, and

13. Amend page 3, section 4, lines 18 and 19.
Following: "service"
Strike: ", when the application for the subpoena is made by a county at

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 3-30-77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman			✓
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret	✓		

Each day attach to minutes.

HOUSE BILL NO. 498

INTRODUCED BY SCULLY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INVESTIGATIVE SUBPOENAS FOR COUNTY ATTORNEYS ~~AND--THE ATTORNEY-GENERAL~~; PROVIDING FOR PROCEDURES IN RELATION TO SUCH SUBPOENAS AND THE INVESTIGATIVE INQUIRIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Investigative subpoena. (1) Whenever ~~the attorney--general--or~~ a county attorney has a duty to investigate ~~criminal-activity~~ ALLEGED UNLAWFUL ACTIVITY, any justice of the supreme court or district court judge of this state may cause subpoenas to be issued commanding the persons to whom they are directed to appear before ~~the attorney-general-or~~ the county attorney and give testimony and produce such books, records, papers, documents, and other objects as may be necessary and proper to the investigation. A subpoena may issue only when it appears upon the affidavit of ~~the-attorney--general--or~~ the county attorney that the administration of justice requires it to be issued AND THAT THERE IS RELEVANT CONNECTION TO AN EXISTING CRIMINAL INVESTIGATION.

(2) A person who, without just cause, fails to obey a subpoena served on him pursuant to this act is punishable for contempt of court.

(3) A person aggrieved by a subpoena issued pursuant to this act may, within a reasonable time, file a motion to dismiss the subpoena and, in the case of a subpoena duces tecum, to limit its scope. The motion shall be granted if the subpoena was improperly issued or, in the case of a subpoena duces tecum, if it is overly broad in its scope.

Section 2. Conduct of investigative inquiry. (1) ~~The attorney--general--or~~ ANY EXAMINATION BY the county attorney ~~may-examine~~ UNDER THIS ACT SHALL BE CONDUCTED under oath ~~all witnesses-subpoenaed-pursuant-to-this-act~~ BEFORE THE JUSTICE OR JUDGE WHO AUTHORIZED THE ISSUANCE OF THE SUBPOENA. Testimony ~~may~~ SHALL be recorded ~~and--transcribed-in-the manner-provided-for-grand-jury-proceedings~~. THE WITNESS HAS THE RIGHT TO HAVE COUNSEL PRESENT AT ALL TIMES. IF HE DOES NOT HAVE FUNDS TO OBTAIN COUNSEL, THE JUDGE OR JUSTICE SHALL APPOINT COUNSEL FOR HIM.

(2) The secrecy and disclosure provisions relating to grand jury proceedings apply to proceedings conducted under subsection (1). A person who divulges the contents of the application or the proceedings without legal privilege to do so is punishable for contempt of court.

(3) All penalties for perjury or preparing, submitting, or offering false evidence apply to proceedings

conducted under this act.

Section 3. Self-incrimination and immunity. (1) No person subpoenaed to give testimony pursuant to this act may be required to make any statement or produce any evidence which may incriminate him. The ~~attorney--general--or--the~~ county attorney may, WITH THE APPROVAL OF THE JUSTICE OR JUDGE WHO AUTHORIZED THE ISSUANCE OF THE SUBPOENA on behalf of the state, grant any person subpoenaed immunity from prosecution or punishment for or on account of any transaction or other matter concerning which the person testifies or produces evidence pursuant to the subpoena. After being granted such immunity, no person may be excused from testifying on the grounds that his testimony may incriminate him. The immunity may not extend to prosecution or punishment for false statements given pursuant to the subpoena.

(2) Nothing in this act requires a witness to divulge the contents of a privileged communication unless the privilege is waived as provided by law.

Section 4. Applicability of other laws -- costs. (1) The fees and mileage of witnesses subpoenaed pursuant to this act shall be the same as required in criminal actions. The ~~state--shall--bear--all--costs,--including--the--cost--of service,--when--the--application--for--the--subpoena--is--made--by the--attorney--general,--and--the~~ appropr te county shall bear

all costs, including the cost of service~~,--when--the application--for--the--subpoena--is--made--by--a--county--attorney~~.

(2) All provisions relating to subpoenas in criminal actions apply to subpoenas issued pursuant to this act, including the provisions of 95-1808 through 95-1811.

Section 5. Effective date. This act is effective on its passage and approval.

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(2) A person who, without just cause, fails to obey a subpoena served on him pursuant to this act is punishable for contempt of court.

(3) A person aggrieved by a subpoena issued pursuant to this act may, within a reasonable time, file a motion to dismiss the subpoena and, in the case of a subpoena duces tecum, to limit its scope. The motion shall be granted if the subpoena was improperly issued or, in the case of a subpoena duces tecum, if it is overly broad in its scope.

Section 2. Conduct of investigative inquiry. (1) ~~The attorney general or~~ ~~ANY EXAMINATION BY~~ THE ATTORNEY GENERAL OR the county attorney ~~may examine~~ ~~UNDER THIS ACT SHALL BE CONDUCTED~~ MAY EXAMINE under oath ~~all witnesses subpoenaed pursuant to this act~~ ~~BEFORE THE JUSTICE OR JUDGE WHO AUTHORIZED THE ISSUANCE OF THE SUBPOENA~~ ALL WITNESSES SUBPOENAED PURSUANT TO THIS ACT. Testimony ~~may~~ SHALL be recorded ~~and transcribed in the manner provided for grand jury proceedings~~. THE WITNESS HAS THE RIGHT TO HAVE COUNSEL PRESENT AT ALL TIMES. IF HE DOES NOT HAVE FUNDS TO OBTAIN COUNSEL, THE JUDGE OR JUSTICE SHALL APPOINT COUNSEL FOR HIM.

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so is punishable for contempt of court.

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The ~~state shall bear all costs, including the cost of service, when the application for the subpoena is made by the attorney general, and the~~ STATE SHALL BEAR ALL COSTS, INCLUDING THE COST OF SERVICE, WHEN THE APPLICATION FOR THE SUBPOENA IS MADE BY THE ATTORNEY GENERAL, AND THE appropriate county shall bear all costs, including the cost of service, ~~when the application for the subpoena is made by a county attorney~~ WHEN THE APPLICATION FOR THE SUBPOENA IS MADE BY A COUNTY ATTORNEY.

(2) All provisions relating to subpoenas in criminal actions apply to subpoenas issued pursuant to this act, including the provisions of 95-1808 through 95-1811.

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-End-